

810-6-3-.24 Sales to Foreign Governments, Diplomatic and Consular Officials.

(1) Unless otherwise provided herein, Sales to a foreign government or to its agents for use of a foreign government are subject to the sales tax unless they are immune because of a treaty between the foreign government and the United States. The Alabama tax should be collected on such sales in the absence of proof that the foreign power is immune because of such a treaty. (Section 40-23-4(a)(17))

~~(2) The immunity does not extend to the members of the armed services of foreign governments who are purchasing tangible personal property for their own use.~~

(2) Sales and use tax does not apply to sales of tangible personal property to foreign diplomatic and consular officials, to the extent that such persons have been identified by the U.S. Department of State or American Institute in Taiwan (AIT) as exempt from the tax pursuant to treaties or other diplomatic agreements with the United States. (U.S. Constitution, Article VI, and Code of Alabama 1975, Sections 40-23- 4(a)(17) and 40-23-62(2))

(3) Lodgings tax does not apply to rooms, lodgings, or accommodations rented or furnished to foreign diplomatic and consular officials, to the extent that such persons have been identified by the U.S. Department of State or AIT as exempt from the tax pursuant to treaties or other diplomatic agreements with the United States. (U.S. Constitution, Article VI)

(4) Pursuant to U. S. law, the Taipei Economic and Cultural Representative Office in the United States (TECRO), the Taipei Economic and Cultural Offices (TECOs), their designated employees, and their qualifying dependents are entitled to tax exemption privileges. Accordingly, the American Institute in Taiwan (AIT) issues tax exemption cards that incorporate the same features and design elements as the Office of Foreign Mission's tax exemption cards. Other than the exception noted in (5) below, persons identified as exempt from taxation pursuant to treaties or other diplomatic agreements with the United States are issued a tax exemption card by the U.S. Department of State or AIT which identifies the bearer as exempt from tax and specifies the extent of the exemption. Tax exemption cards may be personal tax exemption cards, mission tax exemption cards, or official tax exemption cards.

(a) Personal tax exemption cards bear the photograph and identification of a duly accredited consulate, embassy employee, or dependent who is entitled to tax exemption privileges as stated on the card and are for the personal use of the bearer whose picture appears on the front of the card. The cards are not transferable and cannot be loaned to any other person, regardless of that person's eligibility for exemption from taxation. There is no restriction on the form of payment that can be used with this type of card.

(b) Mission tax exemption cards and official tax exemption cards bear the photograph and identification of a consulate, or embassy employee who is the official purchasing agent for that office and are for use by foreign missions (including TECRO and TECO) to obtain exemption from taxes on purchases in the United States that are necessary for the mission and function of the foreign consulate or embassy. The individual pictured is the point of contact and need not be present at the purchase. However, all purchases must be paid for with a check, credit card, or wire transfer transaction in the name of the foreign government or mission, TECRO, or TECO. The cards may not be used for personal purchases of tangible personal property or personal rentals of rooms, lodgings, or accommodations.

(5) Tax exemptions allowed on vehicle purchases by all diplomatic missions and members in the United States must be approved or denied by the U.S. Department of State, Office of Foreign Missions, before the transaction is completed. Prior to completing the transaction, vendors selling vehicles pursuant to a diplomatic tax exemption must follow these procedures:

(a) The purchaser should present a mission tax exemption card, a personal tax exemption card, or a protocol identification card to the seller. Members of the United Nations (UN), Organization of American States (OAS), World Bank (WB), and the International Monetary Fund (IMF) requesting a diplomatic exemption on the purchase of a vehicle must present their personal tax exemption card.

(b) The vendor must contact the U.S. Department of State, Office of Foreign Missions, at (305) 442-4943 or by e-mail at OFMMICustomerService@state.gov for a determination on the tax-exempt status of the purchaser.

(c) The U.S. Department of State, Office of Foreign Missions, will determine the tax-exempt status of the purchaser and provide a letter to the vendor setting forth that determination.

(6) Sales, use, and lodgings taxes apply to the following:

(a) Sales of tangible personal property to, and the rental or furnishing of rooms, lodgings, or accommodations to, foreign diplomatic and consular officials who do not hold a tax exemption card issued by the U.S. Department of State or the American Institute in Taiwan (AIT).

(b) Sales of tangible personal property to, and the rental or furnishing of rooms, lodgings, or accommodations to, persons holding tax exemption cards where their total purchases in a single transaction do not exceed the minimum level of exemption as specified on the tax exemption card. With respect to minimum purchase requirements, the total of all items purchased in a single transaction must equal or exceed the minimum purchase

level shown on the card. For example, if a foreign official has a card with a minimum purchase requirement of \$150, the official is required to pay sales or use tax on a bill of \$145. However, the same official would be exempt from all sales or use taxes on a bill of \$175. Also, if two foreign officials are traveling together but they have separate rooms and separate bills, they cannot combine the room bills under one total in order to qualify for a lodgings tax exemption.

(c) Sales of tangible personal property to, and the rental or furnishing of rooms, lodgings, or accommodations to, nationals of the United States even though such persons may perform consular functions for foreign governments.

(6) Sellers making sales to, or renting or furnishing rooms, lodgings, or accommodations to, foreign diplomatic and consular officials shall retain a copy of the invoice or other written evidence of the transaction to support any deductions claimed on their sales, use, or lodgings tax returns for tax-exempt sales or room rentals to foreign diplomatic and consular officials. These invoices shall show the name of the purchaser, the name of the mission, the tax exemption number, the expiration date of the tax exemption card, and the minimum level of exemption specified on the tax exemption card. When a personal tax exemption card is presented, the seller may ask the purchaser for an additional form of identification such as the purchaser's drivers license or his or her diplomatic or consular identification card, which many holders of personal tax exemption cards are also issued.

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Authority: Sections 40-2A-7(a)(5), 40-2A-7(a)(1), 40-23-9, 40-23-83 40-23-4(a)(17), 40-23-9, 40-23-62 and 40-23-83, Code of Alabama, 1975

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